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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,024	04/26/2001	Barry Appelman	06975-128001	6929
26171	7590	09/09/2004	EXAMINER	
FISH & RICHARDSON P.C. 1425 K STREET, N.W. 11TH FLOOR WASHINGTON, DC 20005-3500			REID, CHERYL M	
			ART UNIT	PAPER NUMBER
			2142	

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/842,024

Applicant(s)

APPELMAN ET AL.

Examiner

Cheryl M. Reid

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) s
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-20 have been examined.

Specification

2. Applicant is advised that there is a minor-informality with spelling. On Page 2, line 18, applicant has "hosed" instead of "host". Proper correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1,2,4, 10,12,14, 15, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamlin (US 6477504).

Claim 1,15, and 19

Hamlin discloses a method for transmitting data to one or more users of a communication system (Col 2, lines 54-56), the method comprising:

Establishing a connection with one or more users (Col 12, lines 51-53).

Designating targeting rules applicable to online users (Col 5, lines 39-42, Col 9, lines 39-41). Examiner is interpreting "rules" to be predefined criteria usable by the client.

Hamlin discloses acquiring context information of online users (Col 8, lines 66-67, Col 12, lines 51-52).

Hamlin discloses applying the targeting rules to the context information to identify targeted online users (Col 12, lines 53-57); and sending data to the targeted online users (Col 12, lines 61-63).

Claims 2

Hamlin discloses that the targeting rules include parameters specifying a location of online users (Col 11, lines 56-63).

Claims 4 and 14

Hamlin discloses that the location of online user is an online location (Col 11, lines 65-67)

Claim 10

Hamlin discloses that the targeting rules include specified parameters (Col 5, lines 39-42) and applying the targeting rules to the context information includes identifying online users meeting the specified parameters (Col 12, lines 61-63).

Claim 12

Hamlin discloses that the data sent to a target user is specific to a location of the target user (Col 11, lines 56-63, Col 12, lines 2-7).

Claim 16

Hamlin discloses a computer readable medium that comprises a disc (Col 4, lines 17-20).

Claim 17

Hamlin discloses a computer readable medium that comprises a client device (Col 5, lines 55-59, Fig 2a (280)).

Claim 18

Hamlin discloses a computer readable medium that comprises a host device (Col 5, line 2, Fig 1 (124)).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin.

Claim 5

Hamlin discloses that the input device (access device) includes alphanumeric and other keys (Col 3, lines 55-61). Although Hamlin does not explicitly teach that the targeting rules include parameters that specify a particular type of access device, he does specify that it is a requirement that the input device (access device) be of a particular type. It is therefore obvious to one of ordinary skills in the art, that Hamlin is using the type of access device employed by the user as a targeting rule.

Claim 7

Hamlin discloses that the context information of online users may include the age and occupation of the respondent (Col 12, lines 51-53). Hamlin also discloses that specific locations would be targeted for a particular survey (Col 11, lines 60-63).

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Hamlin is silent in regards to using a token to identify the current location of an online user. Hamlin's invention deals with providing an efficient method of identifying and surveying an appropriate (desired) target group (Col 9, lines 39-40). It would be an obvious improvement to Hamlin's invention if the context information also included a token that identify the current location of an online user. This would provide an efficient and reliable method for identifying a specific target group. It is for this reason that one of ordinary skill in the art would be motivated to modify Hamlin's invention to include a token that identified current location of online.

Claim 9

Hamlin discloses that the location of online user is an online location (Col 11, lines 65-67)

6. Claims 3, 8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin as applied to claims 2, 7, and 12 above, and further in view of Ansell.

Claims 3, 8, and 13

Hamlin discloses that the location of the online user is an online location (Col 11, lines 65-67).

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Hamlin is silent about the location of the online user being specific to a geographic location. In an analogous art, Ansell teaches about using the geopolitical location of the client computer as a deciding criteria (Col 1, line 55-63). Hamlin invention deals with identifying which particular survey should be administered to a certain individual, by using certain targeting rules (deciding criteria) (Col 12, lines 51-57). It would be an obvious improvement to Hamlin's invention, to one of ordinary skill in the art if geographic location of a user was one of the targeting rules that Hamlin used to decide which survey to administer. Adding this targeting rule would allow Hamlin to be more selective in respect to which respondents were targeted or selected to participate in his survey.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin as applied to claim 1 above, and further in view of de Ment (US 6728755).

Claim 6

Hamlin does not disclose that the targeting rules include parameters specifying a particular type of software employed by the online users. In an analogous art, De Ment teaches that the online user cannot participate in survey, if their browser does not support cookies (Col 4, lines 42-46). Hamlin invention deals with selecting a particular (specific) target group or respondents for fielding the survey (Col 7, lines 5-7). It would have been obvious to one of ordinary skill in the art that using the type of software

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employed by the online users as a targeting rule (criteria) would be an improvement to Hamlin's invention. Adding this targeting rule would allow Hamlin to be more selective in respect to which respondents were targeted or selected to participate in his survey.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin as applied to claim 10 above, and further in view of Boe (US 6236975).

Claim 11

Hamlin does not teach about ranking online users based on the specified parameters. In an analogous art, Boe discloses ranking customers relative to a selective peer group (Column 1, lines 48-50). Boe teaches that it would be advantageous to rank users because it would provide companies information about individuals who are more likely to purchase their products (Column 1, lines 59-62) and provide respondents with feedback showing where he stands relative to his peers (Column 3, lines 4-6). Hamlin invention deals with providing effective methods of finding and interviewing targeted customers and consumers (Col 2, lines 31-33). It is a further objective of Hamlin's invention to provide businesses with an understanding of the opinions and attitudes of consumers and customers (Col 2, lines 44-48). It is for this reason that one of ordinary skill in the art would have been motivated to modify Hamlin's invention such that it provided a mechanism for ranking users based on specified parameters.

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9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamlin as applied to claim 19 above, and further in view of Boe (US 6236975).

Claim 20


Hamlin does not disclose a targeting server interconnected with an instant voting server and a routing processor. Boe's invention teaches of a survey system that comprises a targeting server. Boe reveals a survey system that includes a server that request/evaluate targeting questions (Col 3, lines 23-26, lines 36-38). Examiner is interpreting "targeting server" as any server that uses targeting rules because this definition offers the broadest reason of interpretation. Boe teaches that the survey system consist of an instant voting server and a routing processor (Col 4, lines 48-52). Examiner is interpreting "instant voting server" as any server that is capable of allowing respondents to instantly vote and/or instantly receive results. Boe teaches that system is capable of providing respondents with results while he or she is online (Col 4, lines 51-52). The American Heritage College dictionary defines instant as a short time. A respondent's online session would be considered a "short time", i.e. instant. It is inherent that Boe's system uses a routing processor because his invention transmits data over the Internet. One of the objectives of Hamlin's invention is to allow business decision makers to be in close and timely contact with their markets (Col 2, lines 40-42). It would be an obvious improvement to one of ordinary skill in the art if Hamlin's system was modified to include a targeting server interconnected with an instant voting server

because this would allow business decision makers instant access to respondents answers to survey questions.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl M. Reid whose telephone number is 703 305-0435. The examiner can normally be reached on Mon- Fri (7-4:30) 2nd & 5th Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Harvey can be reached on (703) 305-9705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JACK B. HARVEY
SUPERVISORY PATENT EXAMINER

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